IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL REVISION APPLICATION NOS. 14 AND 15 OF 2003.

Shri Gurudas Gawas,
Chairman, M/s. Vividha
Super Market Consumer
Co-0p Society, Assonora. ... Petitioner.

Versus

State represented by
Shri P.A. Bandekar,
Labour Inspector,
Mapusa. ... Respondent.

Mr. S.S. Kantak, Advocate for the Petitioner.

Mr. S.N. Sardessai, Public Prosecutor for the Respondent State.

Coram : P.V. HARDAS, J.

Date : 19th June 2003.

ORAL ORDER.

Criminal Revision Application No. 14 of 2003 has been filed against the Order of the learned Judicial Magistrate, First Class, Bicholim, dated 27th February 2003, in Labour Case No. 4/L/01/C. Criminal Revision Application No. 15 of 2003 has been filed against the Order of the learned Judicial Magistrate, First Class, Bicholim, dated 27th February 2003, in Labour Case No. 3/L/2001/C. Since the point urged in both the revisions is identical, both the revisions are being decided by this common Order.

2. The respondent herein had filed a complaint against the present applicant alleging therein that the applicant had violated/contravened the provisions of the Minimum Wages Act, 1948. In the said complaint, the applicant was styled as the Chairman of M/s. Vividha

Super Market Consumer Co-operative Society. After issuance of process, the applicant appeared before the learned trial Court and filed applications in both the cases praying that he be discharged from the cases, as, at the relevant time, he was not the Chairman of the Co-operative Society. The applicant annexed the copy of the Minutes of the Meeting of the Co-operative Society to substantiate his plea that he was not the Chairman of the Co-operative Society.

3. The learned trial Court by the aforesaid Orders dismissed the applications filed by the applicant on the ground that during trial the applicant can take benefit and rely upon Section 23 of the Minimum Wages Act to plead before the Court that some other person has committed the offence without the knowledge of the applicant.

4. Mr. Kantak, the learned counsel appearing on behalf of the applicant has urged before me that the copy of the Minutes placed by the applicant on record clearly reveals that he was not the Chairman of the Co-operative Society on the relevant date when the inspection was carried out by the Inspector under the Minimum Wages Act. According to him, the applicant should not be made to suffer the rigours of a trial as there is no prima facie material on record to show that

the applicant, at the relevant time, was the Chairman of the Co-operative Society.

5. Mr. Sardessai, the learned Public Prosecutor on behalf of the respondent State, has submitted that the applicant, at the relevant time, that is, when the inspection was carried out, was the Chairman of the Co-operative Society.

6. The question whether the applicant was the Chairman, at the relevant time, that is, when the inspection was carried out, is a matter which is required to be examined after the parties lead their evidence. The applicant cannot succeed in his plea that he was not the Chairman, at the relevant time, merely on the production of the Minutes of the Meeting of the Board of Directors. The said Minutes will have to be established and proved by the applicant/accused. At this stage, even a prima facie opinion cannot be given that the applicant is not the Chairman of the Co-operative Society. Such a decision will have to be arrived at by the Court after the parties lead their evidence and the applicant is able to substantiate his defence.

7. In my considered opinion, therefore, the learned trial Court was perfectly justified in rejecting

the applications of the applicant for discharge. There is, thus, no merit in the revision applications and the same are, accordingly, dismissed. It is needless to add that the learned trial Court shall endeavour to dispose of the Criminal Cases as early as possible.

(P.V. HARDAS)
JUDGE.

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